

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

MISTER COLEMAN,

v.

Plaintiff,

JAMES DZURENDA, *et al.*,

Defendants.

Case No. 3:24-cv-00311-MMD-CSD

ORDER

Plaintiff Mister Coleman brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Ely State Prison. (ECF No. 17.) On February 21, 2025, this Court ordered Mister Coleman to file an amended complaint by March 21, 2025. (ECF No. 16.) The Court warned Coleman that the action could be dismissed if he failed to file an amended complaint by that deadline. (*Id.* at 10.) That deadline expired and Coleman did not file an amended complaint, move for an extension, or otherwise respond.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket;

1 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
2 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
3 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
4 *Malone*, 833 F.2d at 130).

5 The first two factors, the public's interest in expeditiously resolving this litigation
6 and the Court's interest in managing its docket, weigh in favor of dismissal of Mister
7 Coleman's claims. The third factor, risk of prejudice to defendants, also weighs in favor
8 of dismissal because a presumption of injury arises from the occurrence of unreasonable
9 delay in filing a pleading ordered by the court or prosecuting an action. See *Anderson v.*
10 *Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring
11 disposition of cases on their merits—is greatly outweighed by the factors favoring
12 dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can
14 be used to correct the party's failure that brought about the Court's need to consider
15 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
16 that considering less drastic alternatives *before* the party has disobeyed a court order
17 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
18 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
19 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court’s
20 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
21 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
22 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
23 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
24 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
25 unless Coleman files an amended complaint, the only alternative is to enter a second
26 order setting another deadline. But the reality of repeating an ignored order is that it often
27 only delays the inevitable and squanders the Court’s finite resources. The circumstances
28 here do not indicate that this case will be an exception: there is no hint that Coleman

1 needs additional time or evidence that he did not receive the Court's screening order.
2 Setting another deadline is not a meaningful alternative given these circumstances. So,
3 the fifth factor favors dismissal.

4 Having thoroughly considered these dismissal factors, the Court finds that they
5 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
6 prejudice based on Mister Coleman's failure to file an amended complaint in compliance
7 with this Court's February 21, 2025, order and for failure to state a claim. The Clerk of
8 Court is directed to enter judgment accordingly and close this case. No other documents
9 may be filed in this now-closed case. If Mister Coleman wishes to pursue his claims, he
10 must file a complaint in a new case.

11 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)
12 is granted. This status does not relieve Plaintiff of his obligation to pay the full \$350 filing
13 fee under the statute; it just means that he can do it in installments. And the full \$350 filing
14 fee remains due and owing even though this case is being dismissed.

15 To ensure that Plaintiff pays the full filing fee, it is further ordered that the Nevada
16 Department of Corrections must pay to the Clerk of the United States District Court,
17 District of Nevada, 20% of the preceding month's deposits to the account of **Mister**
18 **Coleman, # 1234612** (in months that the account exceeds \$10.00) until the full \$350 filing
19 fee has been paid for this action. The Clerk of Court is directed to send a copy of this
20 order (1) to the Finance Division of the Clerk's Office and (2) to the attention of **Chief of**
21 **Inmate Services for the Nevada Department of Corrections** at
22 formapauperis@doc.nv.gov.

23 DATED THIS 4th Day of April 2025.

24
25 
26 MIRANDA M. DU
27 UNITED STATES DISTRICT JUDGE
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